

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

E. HOPE BERGER  
1170 9<sup>Th</sup> Street #2  
Alameda, CA 94501

Registered Nurse License No. 332671

Respondent.

Case No. 2008-374

**DECISION**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 10, 2008.

IT IS SO ORDERED December 10, 2008



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President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST, State Bar No. 203296  
Deputy Attorney General  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
5 Telephone: (415) 703-5548  
Facsimile: (415) 703-5480  
6

7 Attorneys for Complainant

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Psychological Evaluation of:

Case No. 2008-374

11 **E. HOPE BERGER**  
**A.K.A. ELIZABETH HOPE BERGER**  
12 1170 9th Street #2  
Alameda, CA 94501  
13

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

14 Registered Nurse License No. 332671

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties, in the  
17 interest of a prompt and speedy resolution of this matter and consistent with the public interest  
18 and the responsibility of the Board of Registered Nursing of the Department of Consumer  
19 Affairs, that the following Stipulated Surrender of License and Order will be submitted to the  
20 Board for approval and adoption pursuant to Business and Professions Code section 2751.

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), is the Executive Officer of  
23 the Board of Registered Nursing (Board), Department of Consumer Affairs. She brought this  
24 action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr.,  
25 Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney General.

26 2. E. Hope Berger, a.k.a. Elizabeth Hope Berger (Respondent), is representing  
27 herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

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3. On or about September 30, 1981, the Board issued Registered Nurse License No. 332671 to Respondent; the license will expire on February 28, 2009, unless renewed.

## JURISDICTION

4. The Petition to Compel Psychological Evaluation No. 2008-374 was filed Before the Board on June 18, 2008. The Order Compelling Psychological Evaluation No. 2008-374 was filed before the Board on June 30, 2008. Both the Order and Petition were properly served on Respondent on July 9, 2008. Copies are attached as Exhibit A and incorporated herein by reference.

5. Respondent has elected to surrender her Registered Nurse License rather than submit to psychological evaluation. Pursuant to Business and Professions Code (Code) section 2751, the Board may file and adopt this Stipulated Surrender without the filing of a pleading when the ability of a registered nurse to practice nursing safely is impaired due to mental or physical illness.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read and understands the Petition for an Order to Compel Psychological Evaluation, the Order Compelling Psychological Evaluation and this Stipulation pursuant to Code section 2751, and understands the effects of this Stipulated Surrender of License and Order on her registered nurse license.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges admitted in the Stipulation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 9. Respondent admits that on or about January 21, 2006, while working as a  
3 nurse in the neonatal intensive care unit at Children's Hospital Oakland, she infused a two-day-  
4 old infant in her care with the baby's own gastric output. Respondent further admits that she was  
5 taking antidepressants and pain killers at the time; has a life-long history of depression;  
6 attempted suicide in 2002; and has had memory problems since admitting herself to Herrick  
7 (Psychiatric) Hospital in Berkeley in June 2006 and receiving five weeks of electroshock therapy.

8 10. Respondent hereby surrenders her Registered Nurse License No. 332671  
9 for the Board's formal acceptance. Respondent understands that by signing this stipulation, she  
10 enables the Board to issue an order accepting the surrender of her Registered Nurse without  
11 further process.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Registered  
14 Nursing. Respondent understands and agrees that counsel for Complainant and Board staff may  
15 communicate directly with the Board regarding this stipulation and settlement, without notice to  
16 or participation by Respondent. By signing the stipulation, Respondent understands and agrees  
17 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the  
18 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
19 Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for  
20 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board  
21 shall not be disqualified from further action by having considered this matter.

22 12. The parties understand and agree that facsimile copies of this Stipulated  
23 Surrender of License and Order, including facsimile signatures thereto, shall have the same force  
24 and effect as the originals.

25 13. In consideration of the foregoing admissions and stipulations, the parties  
26 agree that the Board may, without further notice or formal proceeding, issue and enter the  
27 following Order:

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**ORDER**

IT IS HEREBY ORDERED that Registered Nurse License No. 332671, issued to Respondent E. Hope Berger, a.k.a. Elizabeth Hope Berger, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a registered nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board both her Registered Nurse wall and pocket license certificate on or before the effective date of the Decision and Order.

4. Respondent fully understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in this Stipulation shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in this Stipulation shall be deemed to be true, correct and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Respondent shall not apply for licensure or petition for reinstatement for one (1) year from the effective date of the Board of Registered Nursing's Decision and Order.

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1                   7.     Upon seeking reinstatement, it is the responsibility of the former licensee  
2 to submit competent evidence of the ability to safely and competently practice as a registered  
3 nurse.

4                                   ACCEPTANCE

5                   I have carefully read the Stipulated Surrender of License and Order. I understand  
6 the stipulation and the effect it will have on my Registered Nurse License. I enter into this  
7 Stipulated Surrender of License and Order voluntarily, knowingly and intelligently, and agree to  
8 be bound by the Decision and Order of the Board of Registered Nursing.

9 DATED: August 19, 2008.

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11                                   E Hope Berger  
12 E. Hope Berger, a.k.a. Elizabeth Hope Berger  
13 Respondent

14                                   ENDORSEMENT

15                   The foregoing Stipulated Surrender of License and Order is hereby respectfully  
16 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
17 Affairs.

18 DATED: Aug. 29, 2008

19 EDMUND G. BROWN JR., Attorney General  
20 of the State of California

21 FRANK H. PACOE  
22 Supervising Deputy Attorney General

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24 LESLIE E. BRAST  
25 Deputy Attorney General

26 Attorneys for Complainant

**Exhibit A**  
**Order Compelling Psychological Evaluation No. 2008-374**

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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Petition to Compel  
11 Psychological Evaluation of:

12 **E. HOPE BERGER**  
13 **A.K.A. ELIZABETH HOPE BERGER**  
14 1170 9th Street #2  
15 Alameda, CA 94501

16 Registered Nurse License No. 332671

17 Respondent.

Case No. 2008-374

**ORDER COMPELLING**  
**PSYCHOLOGICAL EVALUATION**  
**(Cal. Bus. & Prof. Code § 820)**

18 Ruth Ann Terry, M.P.H., R.N., Executive Officer of the Board of Registered  
19 Nursing (Board), Department of Consumer Affairs of the State of California, having petitioned  
20 this Board for an order requiring E. Hope Berger, a.k.a. Elizabeth Hope Berger (Respondent),  
21 holder of Registered Nurse License No. 332671, to be examined by a physician specializing in  
22 psychiatry, or by a psychologist, pursuant to Business and Professions Code section 820, and it  
23 appearing to the Board that Respondent may be mentally ill to the extent that her condition may  
24 affect her ability to practice nursing safely, the Order of the Board is as follows:

25 **IT IS ORDERED** pursuant to Business and Professions Code section 820:

26 1. That Respondent shall submit to an examination to be conducted by a  
27 physician specializing in psychiatry or by a psychologist selected by the Board or its designee to  
28 determine whether Respondent is mentally ill to the extent that her ability to practice nursing  
safely is impaired;

1                   2.       That the examination of Respondent shall be conducted at a time mutually  
2 convenient to Respondent and to the examiner selected by the Board, but in no event later than  
3 thirty (30) days from the date of service of this Order;

4                   3.       That the examination shall continue day to day until completed and shall  
5 include any and all examinations and/or tests ordered and/or conducted by the examining  
6 psychiatrist(s) or psychologist(s) as considered necessary in his/her/their professional judgment,  
7 and the results of said examinations shall be reported by the examiner in a detailed written report  
8 setting forth his/her findings and conclusion, which shall be delivered to the Executive Officer of  
9 the Board of Registered Nursing, with a copy of said report to the Respondent; and,

10                  4.       That the failure of Respondent to comply with this order by either refusing  
11 or failing to submit to the examination or cooperate with the examiner, shall constitute grounds  
12 for disciplinary action against Respondent's license pursuant to Business and Professions Code  
13 section 821.

14                   IT IS SO ORDERED this 30th day of June, 2008.

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17                               *LaTrancine Tate*  
18                               PRESIDENT  
19                               Board of Registered Nursing  
20                               State of California  
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EDMUND G. BROWN JR., Attorney General  
of the State of California  
FRANK H. PACOE  
Supervising Deputy Attorney General  
LESLIE E. BRAST, State Bar No. 203296  
Deputy Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-5548  
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition to Compel  
Psychological Evaluation of:

Case No. 2008-374

**E. HOPE BERGER  
A.K.A. ELIZABETH HOPE BERGER**  
1170 9th Street #2  
Alameda, CA 94501

**PETITION FOR AN ORDER TO  
COMPEL PSYCHOLOGICAL  
EVALUATION**

Registered Nurse License No. 332671

**(Cal. Bus. & Prof. Code § 820)**

Respondent.

Ruth Ann Terry, M.P.H., R.N., alleges as follows:

**PARTIES**

1. Petitioner Ruth Ann Terry, M.P.H., R.N., makes and files this Petition for an Order to Compel Psychological Examination solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (Board).

2. On or about September 30, 1981, the Board issued Registered Nurse License Number 332671 to E. Hope Berger, a.k.a. Elizabeth Hope Berger (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2009, unless renewed.

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1 CAUSE FOR PSYCHOLOGICAL EVALUATION

2 (Possible Mental Illness Compromising Safe Nursing Practice)

3 7. Respondent may be mentally or physically ill to the extent that her ability  
4 to practice nursing safely is impaired, as follows:

5 a. On or about January 21, 2006, while working as a nurse in the  
6 neonatal intensive care unit at Children's Hospital Oakland, Respondent infused a two-day-old  
7 infant in her care following abdominal surgery with the baby's own gastric output. Rather than  
8 measuring and discarding the gastric output and replacing the lost fluid with an infusion of clear  
9 intravenous solution, as ordered by the infant's physician, Respondent collected the gastric  
10 output and then programmed an infusion pump to infuse the dark green gastric fluid  
11 intravenously through a small catheter in the baby's right hand.

12 b. Respondent was interviewed about the incident on or about  
13 February 6, 2007. She explained to the Division of Investigation Investigator: "I knew I was  
14 doing the wrong thing . . . I knew immediately that I had done the wrong thing because the fluid  
15 was not clear. I remember being puzzled when I was doing that. Something wasn't making  
16 sense and I was thinking that maybe I shouldn't have come to work. There was a little flash that  
17 something was not making sense."

18 c. Respondent further stated to the investigator that she was taking  
19 antidepressants and pain killers; had a life-long history of depression; attempted suicide in 2002;  
20 admitted herself to Herrick (Psychiatric) Hospital in Berkeley in June 2006; received five weeks  
21 of electroshock therapy; could not recollect the period extending from one month before to one  
22 month after her electroshock treatment; and has had memory problems every since.

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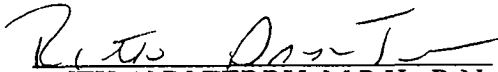
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PRAYER

WHEREFORE, Petitioner requests that the Board of Registered Nursing issue an order pursuant to Business and Professions Code section 820 requiring that E. Hope Berger, a.k.a. Elizabeth Hope Berger, be examined by a physician specializing in psychiatry or by a qualified psychologist at a time convenient to Ms. Berger and to the examiner, but not more than thirty (30) days from the date of service of the order when issued, to determine whether Ms. Berger is or may be mentally ill to the extent that her condition affects her ability to practice nursing safely.

DATED: 6/18/08

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant